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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/537,245	02/21/2006	Herbert Stotkiewitz	R.304187	1304

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EXAMINER	
CHAUDRY, ATIF H	

ART UNIT	PAPER NUMBER
4156	

MAIL DATE	DELIVERY MODE
04/01/2008	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/537,245	STOTKIEWITZ ET AL.	
	Examiner	Art Unit	
	ATIF H. CHAUDRY	4156	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE *3* MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on *01 June 2005*.

2a)☐ This action is **FINAL**. 2b)☒ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) *10-29* is/are pending in the application.

4a) Of the above claim(s) _____ is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) *10-29* is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☒ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☒ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date *06/01/05*.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____ .
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Claim Rejections - 35 USC § 102

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

2. Claim 1, 13, 19, 21 are rejected under 35 U.S.C. 102(b) as being anticipated by Blaser (US Patent 4420015).

Fig. 1

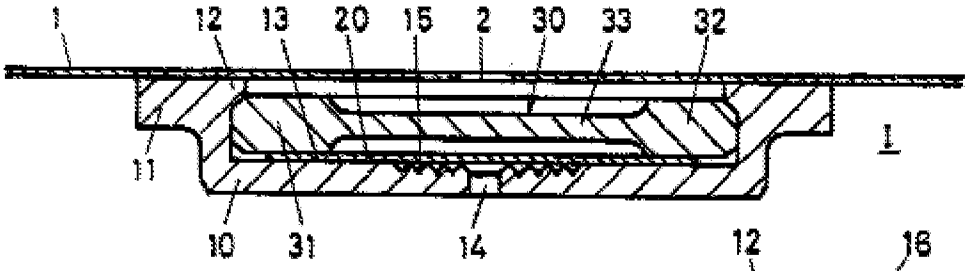


Fig. 3

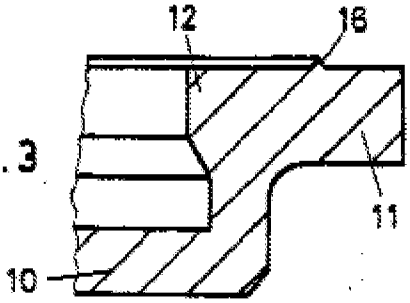
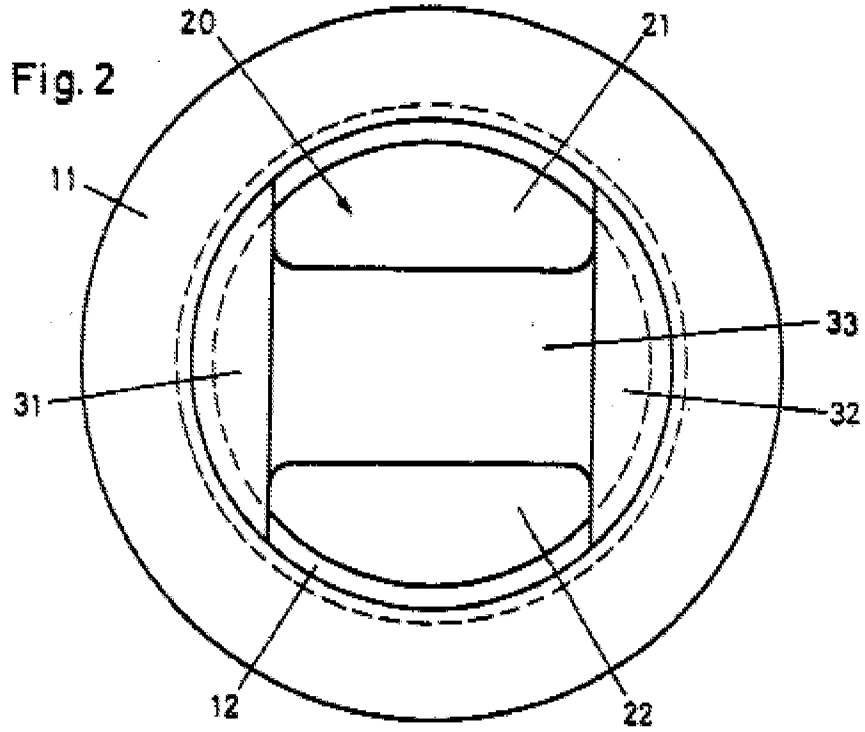


Fig. 2



3. Regarding claim 1, Blaser (fig 1,2,3) discloses a valve for a packaging container1, having a cup-shaped body10, a raised peripheral region on sides of body11 extendingd around, top side of which is joined to length of package1 in inside portion, which has a passage14, in the middle portion, a valve diaphragm20 closing the passage14, wherein in case of overpressure the gas from inside can escape through hole2 in the package material1, the valve diaphragm is joined in captive fashion to the body by pressing jaws 31 and 32, and the holder body11 has at least one indentation at the middle in region of passage14.

4. Regarding claim 13, Blaser discloses the diaphragm20 joined to the body11, with the help of jaws on two opposed sides at jaws 31 and 32, with passage14 in the middle, and there is a spacing in the middle because of the shape of bar33 between the peripheral part11 of the body10, and top of diaphragm20.

5. Regarding claim 19, Blaser discloses one raised area16, on the top side of the holder body10, joined to the package1 by means of wave energy (ultrasonic welding) as stated in (col 4 line 52).

6. Regarding claim 21, Blaser discloses one raised area16, on the top side of the holder body10, joined to the package1 by means of wave energy (ultrasonic welding) as stated in (col 4 line 52).

7.

Claim Rejections - 35 USC § 103

8. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

9. Claim 11, 12, 14, 20 rejected under 35 U.S.C. 103(a) as being unpatentable over Blaser (US Patent 4420015) in view of Domke (US Patent 5727881).

Fig. 1

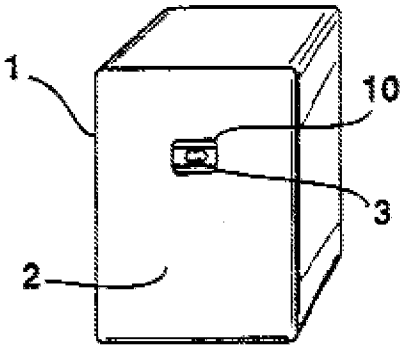


Fig. 2

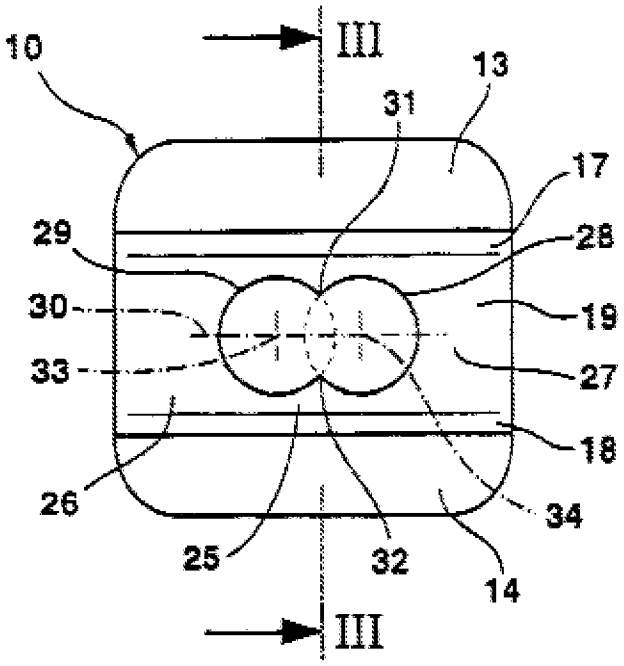
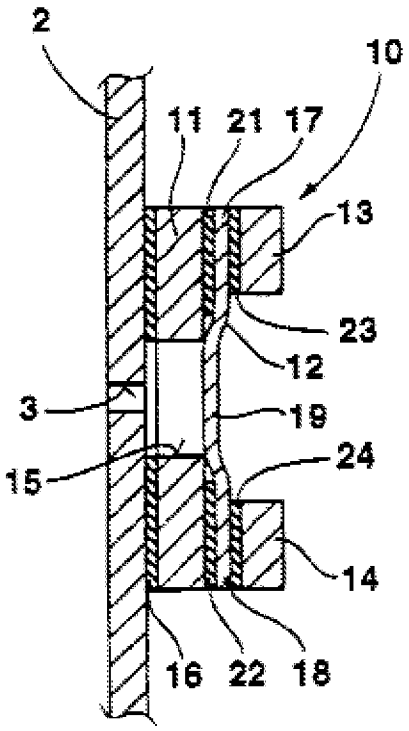


Fig. 3



10. Regarding claim 11 and 12 , Blaser fails to disclose a specific shape of indentation. However, the shape of of the indentation is a matter of obvious design choice to a erson of ordinary skill in the art. Domke(fig 1,2) teaches a pressure relief valve 10, with a diaphragm19 and air passages 3. The valve has has indentation 28,29 in the form of intersecting circles between the diaphragm 19 and air hole 3. It would have been obvious to a person of ordinary skill in the art to have used the semicircular indentation as taught by Domke in the valve disclosed by Blaser or to have used a different shape including shape of a logo as an alternate design choice yielding predictable results.

11. Regarding claim 14, Blaser discloses the diaphragm20 joined to the body11, with the help of jaws on two opposed sides at jaws 31 and 32, with passage14 in the middle, and there is a spacing in the middle because of the shape of bar33 between the peripheral part11 of the body10, and top of diaphragm20.

12. Regarding claim 20, Blaser discloses one raised area16, on the top side of the holder body10, joined to the package1 by means of wave energy (ultrasonic welding) as stated in (col 4 line 52).

13. Claim 15 and 17 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blaser (US Patent 4420015) in view of COPE (US Patent 3179309).

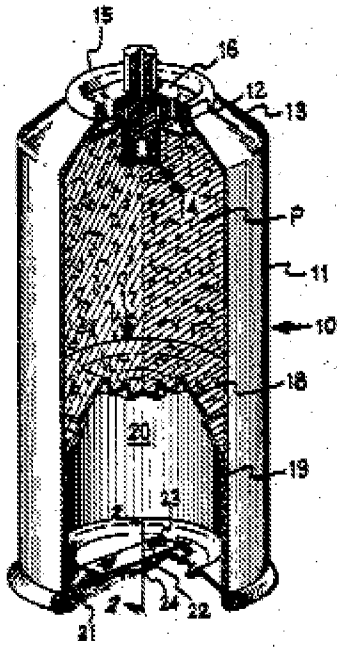


FIG. 1.

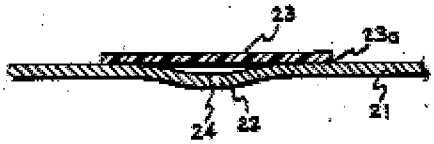


FIG. 2.

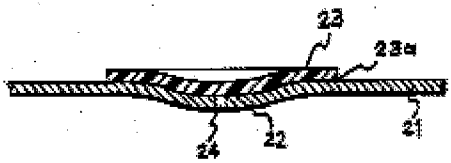


FIG. 5.

14. Regarding claim 15 and 17, Blaser discloses the holder body as rotationally symmetrical. Blaser fails to disclose a strip like diaphragm having straight edges and joining regions extending to the periphery of holder, instead he discloses a strip like clamping member 30 with straight edges and joining region extending to the periphery of holder. Cope (fig 1-5) teaches a diaphragm valve23 with a diaphragm having straight edges and the region of the diphargm23 no joined to the holder body21 spaced apart from peripheral region19 so as to form air passages on the straight edge sides. It would have been obvious to a person having ordinary skills in the art at the time of the invention to have provided the valve disclosed by Blaser with the diaphragm as taught by Cope as an alternate design mechanism known in the art yielding predictable results.

It would have been obvious to a person of ordinary skill in the art to have extended the region of diaphragm joined with body as taught by Cope as far as peripheral region as disclosed by Blaser as an alternate design choice known in the art yielding predictable results.

15. Claim 16, 18, 22, 23, 24, 25, 26, 27, 28, 29 are rejected under 35 U.S.C. 103(a) as being unpatentable over Blaser (US Patent 4420015) in view of Domke (US Patent 5727881) further in view of COPE (US Patent 3179309).

16. Regarding claim 16 and 18, Blaser discloses the holder body as rotationally symmetrical. Blaser fails to disclose a strip like diaphragm having straight edges and joining regions extending to the periphery of holder, instead he discloses a strip like clamping member 30 with straight edges and joining region extending to the periphery of holder. Cope (fig 1-5) teaches a diaphragm valve23 with a diaphragm having straight edges and the region of the diphargm23 no joined to the holder body21 spaced apart from peripheral region19 so as to form air passages on the straight edge sides. It would have been obvious to a person having ordinary skills in the art at the time of the invention to have provided the valve disclosed by Blaser with the diaphragm as taught by Cope as an alternate design mechanism known in the art yielding predictable results. It would have been obvious to a person of ordinary skill in the art to have extended the region of diaphragm joined with body as taught by Cope as far as peripheral region as disclosed by Blaser as an alternate design choice known in the art yielding predictable results.

17. Regarding claim 22, Blaser discloses one raised area16, on the top side of the holder body10, joined to the package1 by means of wave energy (ultrasonic welding) as stated in (col 4 line 52).

18. Regarding claim 23, 24, 25, 26, 27, Blaser fails to disclose adhesive layer as method of joining cale to the body using welding instead. Domke (fig 3) teaches an adhesive layer16 joining the valve body37 to a container2. It would have been obvious to a person having ordinary skills in the art at the time of the invention to have provided the valve disclosed by Blaser with the adhesive layer as taught by Domke in order to join the valve to the body.

19. Regarding claim 28 and 29, the prior art cited discloses all the elements except for the optimum value of the indentation depth. It would have been obvious to a person of ordinary skil in the art at the time of invention to have used the claimed depth, since it has been held that discovering an optimum value f a result effective variable involves only routine skill in the art. *In re Boesch, 617 F.2d-272, 205* USPQ 215 (CCPA 1980)

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Atif H. Chaudry whose telephone number is 571-270-3768. The examiner can normally be reached on Mon-Fri Alternate Friday off 9-5 EST.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dmitry Suhol can be reached on 571-272-4430. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

ATIF CHAUDRY
PATENT EXAMINER
3/28/2008

/Dmitry Suhol/

Primary Examiner, Art Unit 3725